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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,582	10/27/2003	Sandro David Klein	81230.98US1	3749
34018 7590 02/23/2007 GREENBERG TRAUIG, LLP 77 WEST WACKER DRIVE SUITE 2500 CHICAGO, IL 60601-1732			EXAMINER BROWN, VERNAL U	
			ART UNIT	PAPER NUMBER
			2612	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/23/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

58

<b>Office Action Summary</b>	<b>Application No.</b> 10/694,582	<b>Applicant(s)</b> KLEIN ET AL.	
	<b>Examiner</b> Vernal U. Brown	<b>Art Unit</b> 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) ✓            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)     | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) ✓ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The application of Sandro David Klein for Controlling device having a device mode state toggle feature filed 10/27/2003 has been examined. Claims 1-50 are pending.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 10-12, 14, 17-20, 23-24, 25-36, 38, and 41-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Ryzin US Patent 6,127,941.

Regarding claim 1, Van Ryzin teaches a controlling device (100) comprising:

programming for allowing one of the plurality of device mode states by using the graphical interface to select the appropriate icon representing the device (TV, CD, stereo) to be controlled (col. 4 lines 24-39, col. 3 lines 42-49); and programming for allowing one of a subset of the plurality of device mode states to be selected by allowing the user to select sub menus to exert control such as changing the volume or channel of the device(col. 5 lines 44-56).

Regarding claim 2, Van Ryzin teaches the programming for allowing one of a subset

Art Unit: 2612

of the plurality of device mode states to be selected is responsive to actuation of a device mode state toggle key (col. 5 lines 21-24).

Regarding claim 3, Van Ryzin teaches the subset of the plurality of device mode states are maintained in table stored in a memory of the controlling device (col. 6 lines 55-65).

Regarding claims 4-7, Van Ryzin teaches the subset of the plurality of device mode states which is the state of the remote control in which the user is allow to select sub menus to exert control such as changing the volume or channel of the device represented by the device mode state of the remote control (col. 3 lines 42-49).

Regarding claim 10, Van Ryzin teaches the device mode state are indicated by the appropriate icon representing the device (TV, CD, stereo) to be controlled (col. 4 lines 24-39, col. 3 lines 42-49).

Regarding claims 11-12, and 14, Van Ryzin teaches the plurality of device mode states has an indicia (TV, CD, stereo shown in figure 1A) that is used to select the different mode states (col. 3 lines 26-30).

Regarding claims 17-20, Van Ryzin teaches the programming for allowing one of the plurality of device mode states to be selected is responsive to actuation of one of a plurality of device mode keys each of which corresponds to one of the plurality of device mode states and wherein the indicia is associated with the plurality of device mode keys

Art Unit: 2612

(col. 3 lines 42-49). The device mode keys for selecting the device to be controlled (figure 1A) are considered toggle switches because it enables the remote control to toggle from one device state to another.

Regarding claims 23-24, Van Ryzin teaches the actuation of the device mode state by selecting the appropriate icon representing the device (TV, CD, stereo) to be controlled and these icon representing the device modes are considers toggle keys because they causes the remote control to be placed in one of the device mode states (col. 5 lines 44-56).

Regarding claim 25, Van Ryzin teaches a controlling device (100) comprising:  
programming for allowing one of the plurality of device mode states by using the graphical interface to select the appropriate icon representing the device (TV, CD, stereo) to be controlled (col. 4 lines 24-39, col. 3 lines 42-49); and programming for allowing one of a subset of the plurality of device mode states to be selected by allowing the user to select sub menus to exert control such as changing the volume or channel of the device(col. 5 lines 44-56).

Van Ryzin teaches a microprocessor 112 for controlling the operation of the remote control and the program for controlling the operation of the remote control in stored in the readable media provided by cartridge 110 or memory 114 (col. 5 lines 20-30).

Regarding claims 26 and 28-31, Van Ryzin teaches the actuation of the device mode state by selecting the appropriate icon representing the device (TV, CD, stereo) to be controlled and these icon representing the device modes are considers toggle keys because

Art Unit: 2612

they causes the remote control to be placed in one of the device mode states (col. 5 lines 44-56).

Regarding claim 27, Van Ryzin teaches storing the instruction for the device mode state in a memory 114 (col. 5 lines 20-30).

Regarding claims 32-34, Van Ryzin teaches selecting a subset of the plurality of devices in a defined order by moving the cursor in a defined order (e.g. left to right) (col. 3 lines 37-54).

Regarding claims 35-36 and 38, Van Ryzin teaches the plurality of device mode states has an indicia (TV, CD, stereo shown in figure 1A) that is used to select the different mode states (col. 3 lines 26-30).

Regarding claims 41-45, Van Ryzin teaches the programming for allowing one of the plurality of device mode states to be selected is responsive to actuation of one of a plurality of device mode keys each of which corresponds to one of the plurality of device mode states and wherein the indicia is associated with the plurality of device mode keys (col. 3 lines 42-49). The device mode keys for selecting the device to be controlled (figure 1A) are considered toggle switches because it enables the remote control to toggle from one device state to another.

Regarding claims 46-50, Van Ryzin teaches receiving input for causing the

Art Unit: 2612

controlling device to change from a first device mode state selected from the plurality of device mode states to a second device mode state selected from the plurality of device mode states (col. 4 lines 24-39, col. 3 lines 42-49). Van Ryzin teaches placing the controlling device into the second device mode state and storing data indicative of the first device mode state in the controlling device to thereby allow an actuation of a device mode state toggle key to be used to return the controlling device to the first device mode state (col. 6 lines 55-65).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ryzin US Patent 6,127,941 in view of Van Ee et al. US Patent 6,208,341.

Regarding claims 8-9, Van Ryzin teaches programming for allowing one of the plurality of device mode states (TV, CD, stereo) (col. 4 lines 24-39) but is silent on teaching programming the device state so that each device is selected in a predefined order. Van Ee et al. in an art related remote control invention teaches programming the remote control so that the device each device is selected in a predefined order (col. 4 lines 4-47).

It would have been obvious to one of ordinary skill in the art to modify the system of Van Ryzin as disclosed by Van Ee et al. because teaching programming the device state so that each device is selected in a predefined order allows the devices to be operated automatically in a desired sequence in order to achieve a specific result.

Claims 13 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ryzin US Patent 6,127,941 in view of Tigwell US Patent 5227780.

Regarding claims 13 and 37, Van Ryzin teaches the plurality of device mode states has an indicia (TV, CD, stereo shown in figure 1A) that is used to select the different mode states (col. 3 lines 26-30) but is silent on teaching the use of illuminated LED to indicate the selected mode. Tigwell in an art related remote control teaches the use of illuminated LEDs to show the selected device (col. 4 lines 16-20).

It would have been obvious to one of ordinary skill in the art to modify the remote control of Van Ryzin as disclosed by Tigwell because illuminating the LED to show the selected device serves to confirm the user selection and renders the remote control more user friendly.

Claims 15-16 and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ryzin US Patent 6,127,941 in view of Hashimoto et al. US Patent 5,554,980.

Regarding claim 15-16, and 39-40 Van Ryzin teaches the plurality of device mode states has an indicia (TV, CD, stereo shown in figure 1A) that is illuminated when selected (col. 3 lines 26-30) but is silent on teaching presenting an indicia, which is a



Art Unit: 2612

sound or vibration. Hashimoto et al. teaches a remote control producing a sound when a particular switching mode is selected (col. 6 lines 20-24) and also generating a vibration when a particular switching mode is selected (col. 6 lines 34-39).

It would have been obvious to one of ordinary skill in the art to modify the system of Van Ryzin as disclosed by Hashimoto et al. because sound and vibration generated based on the mode selected provide a readily recognizable indication of the user's selection.

Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ryzin US Patent 6,127,941 in view of Griesau et al. US Patent 6,507,306.

Regarding claims 21-22, Van Ryzin teaches the plurality of device mode states has an indicia (TV, CD, stereo shown in figure 1A) but is silent on teaching the toggle key is located adjacent the menu navigation key and the channel function keys. Griesau et al. in an art related remote control system teaches the toggle key is located adjacent the menu navigation key and the channel function keys (figure 1).

It would have been obvious to one of ordinary skill in the art to modify the system of Van Ryzin as disclosed by Griesau et al. because locating the toggle key adjacent to the menu and channel key provides for the convenient operation of the remote control.

Art Unit: 2612

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U. Brown whose telephone number is 571-272-3060. The examiner can normally be reached on 8:30-7:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 571-272-7308. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Vernal Brown  
February 8, 2007



BRIAN ZIMMERMAN  
PRIMARY EXAMINER